

Renewable Energy Question # 21: How has MI, and how have other jurisdictions, chosen to incentivize or penalize exceeding or falling short of renewable targets?

States have implemented a variety of enforcement mechanisms to penalize utilities for falling short of their annual renewable energy requirements. According to research by the Lawrence Berkeley National Laboratory (LBNL), enforcement mechanisms fall into five general categories:

- **Alternative Compliance Payments (ACPs) with automatic cost recovery:** If a utility is not able to generate renewable energy or purchase Renewable Energy Credits (RECs) to meet its obligations, it must pay for ACPs. Each state sets the price of ACPs at a different level. Automatic cost recovery allows the utility to pass along the costs of the ACP to its customers.
- **ACPs with possible cost recovery:** ACPs are paid as above, but the utility is not necessarily allowed to pass these costs along to its customers.
 - In 2009, states collected \$50 million in ACPs, and they collected \$66 million in 2010.
- **Explicit Financial Penalties with no automatic cost recovery.**
- **Discretionary Financial Penalties with no cost recovery.**
- **Enforcement at PUC discretion.**

The table below lists the type of enforcement mechanism and the penalty or alternative compliance payment level for each state RES policy. However, it is important to note that a utility's failure to comply with an annual renewable energy requirement will not necessarily result in an enforcement action. That is because implementing agencies grant waivers, temporary reprieves, or other excusals from compliance by utilities typically on a case by case basis. Still, penalties have been levied in several states, including California, Connecticut, Montana, Ohio, Pennsylvania, and Texas.

State	Type of Enforcement	Description of Penalty/Alternative Compliance Payments
Arizona	Discretionary Financial Penalties with no cost recovery	
California	Explicit Financial Penalties with no automatic cost recovery	
Connecticut	Explicit Financial Penalties with no automatic cost recovery	\$55/MWh
Colorado	Discretionary Financial Penalties with no cost recovery	
Delaware	Alternative Compliance Mechanisms with possible cost recovery	
Hawaii	Discretionary Financial Penalties with no cost recovery	
Kansas	Explicit Financial Penalties with no automatic cost	Failure to comply with the renewable energy requirements results in a minimum penalty equal to

	recovery	twice the market value of RECs that would have been required to meet the requirement.
Maine	Alternative Compliance Mechanisms with automatic cost recovery	\$62.10/MWh
Maryland	Alternative Compliance Mechanisms with possible cost recovery	\$40/MWh for non-solar Tier 1, \$15/MWh for Tier 2, and \$45/MWh for solar (declining to \$50/MWh in 2023)
Massachusetts	Alternative Compliance Mechanisms with automatic cost recovery	ACP is \$64/MWh for Class I sources, \$27/MWh for Class II sources, and \$550/MWh for solar. It is adjusted for upwards inflation each year, and the Department of Energy Resources can adjust it downward based on market conditions.
Michigan	Explicit Financial Penalties with no automatic cost recovery	
Minnesota	Discretionary Financial Penalties with no cost recovery	If the PUC finds a utility is non-compliant, the commission may order the utility to construct facilities, purchase eligible renewable electricity, purchase RECs or engage in other activities to achieve compliance. If a utility fails to comply, the PUC may impose a financial penalty on the utility in an amount not to exceed the estimated cost of achieving compliance.
Missouri	Explicit Financial Penalties with no automatic cost recovery	Utilities that do not meet their renewable and solar portfolio are subject to penalties of at least twice the market value of RECs or SRECs.
Montana	Explicit Financial Penalties with no automatic cost recovery	\$10/MWh
Nevada	Discretionary Financial Penalties with no cost recovery	
New Hampshire	Alternative Compliance Mechanisms with automatic cost recovery	Class I: \$55.00/MWh, Class I Thermal: \$25.00/MWh in 2013, Class II: \$55.00/MWh, Class III: \$31.50/MWh, Class IV: \$26.50/MWh in 2013 (adjusted annually for inflation).
New Jersey	Alternative Compliance Mechanisms with automatic cost recovery	ACP is \$50/MWh, and the solar ACP was \$641/MWh in 2013, declining to \$239/MWh in 2028.
New Mexico	Enforcement at PUC discretion	
North Carolina	Enforcement at PUC discretion	
Ohio	Explicit Financial Penalties with no automatic cost recovery	ACP initially set at \$45/MWh (with the possibility of upwards adjustment each year). The Solar ACP is set at \$450/MWh in 2009, reduced to \$400/MWh in 2010 and 2011, and will be reduced by \$50 every two years thereafter to a minimum of \$50/MWh in 2024.

Oregon	Alternative Compliance Mechanisms with possible cost recovery	ACP = \$50/MWh
Pennsylvania	Explicit Financial Penalties with no automatic cost recovery	ACP of \$45 per megawatt-hour for shortfalls in Tier I and Tier II resources. A separate ACP for solar PV is calculated as 200% times the sum of (1) the market value of solar AECs for the reporting period and (2) the levelized value of up-front rebates received by sellers of solar AECs.
Rhode Island	Alternative Compliance Mechanisms with automatic cost recovery	\$64.02/MWh
Texas	Explicit Financial Penalties with no automatic cost recovery	
Washington	Explicit Financial Penalties with no automatic cost recovery	ACP = \$50/MWh (adjusted annually for inflation)
Wisconsin	Explicit Financial Penalties with no automatic cost recovery	

To date, no state has officially incentivized over-compliance with a state renewable energy standard. However, utilities in several states, including Texas, Minnesota and Colorado are ahead of schedule in complying with state requirements. This is due to an abundance of renewable energy resources and rapidly declining costs of renewable energy.

Resources

- 1) Barbose, G. 2012. *Renewable portfolio standards in the United States: A status update*. Presented at the 2012 National Summit on RPS, Washington, DC, December 3. Online at www.cleanenergystates.org/assets/2012-Files/RPS/RPS-SummitDec2012Barbose.pdf, accessed April 15, 2013.
- 2) Database of State Incentives for Renewables and Efficiency. Available at: <http://www.dsireusa.org/>
- 3) Presentations: 2011 National Summit on RPS. State-Federal RPS Collaborative. October 26 – 27, 2011. Online at <http://www.cleanenergystates.org/assets/Uploads/2011-RPS-Summit-Combined-Presentations-File.pdf>; accessed April 22, 2013.